

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

United States of America,

Plaintiff,

v.

Civil Action No.: 1:18-CV-1276 [DNH/DJS]

\$9,230 in U.S. Currency,

Defendant.

VERIFIED COMPLAINT FOR FORFEITURE IN REM

The United States of America brings this verified complaint for forfeiture *in rem* against the above-captioned assets (the “defendant currency”) and alleges as follows:

NATURE OF THE ACTION

This is an action *in rem* brought pursuant to 21 U.S.C. § 881(a)(6) and Rule G of the Supplemental Rules for Certain Admiralty or Maritime Claims and Asset Forfeiture Actions. Forfeiture is sought of the defendant currency as money furnished or intended to be furnished in exchange for a controlled substance, proceeds traceable to such an exchange, or money used or intended to be used to facilitate a violation of 21 U.S.C. § 841.

THE PARTIES

1. Plaintiff is the United States of America.
2. The defendant currency is \$9,230, which is in the custody of the United States.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1345 and 1355.

4. This Court has *in rem* jurisdiction over the defendant currency pursuant to 28 U.S.C. § 1335(b).

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1335 and 1339.

FACTS

6. Brandon Hicks (Hicks) has a long history of arrests and convictions for drug-related offenses.

7. On April 11, 2014, Hicks pleaded guilty to Criminal Sale of a Controlled Substance in the Third Degree. He was sentenced to four years' incarceration followed by a three-year term of supervised release.

8. As a condition of supervised release, Hicks was required to permit parole officers to search his person, residence, and property at any time.

9. On March 18, 2018, Columbia County Sheriff's Deputies and New York State Parole Officers conducted a traffic stop of a vehicle that Hicks was driving.

10. When law enforcement approached the vehicle, Hicks volunteered that he was in possession of a small quantity of marijuana and a large amount of cash.

11. Law enforcement searched Hicks' person, and found and seized \$250 along with three clear yellow plastic baggies containing a total of one gram of marijuana.

12. Law enforcement also searched Hicks' vehicle, and found and seized what at first appeared to be \$12,180 inside of a black bag in the center console, in the following denominations: 44 \$100 dollar bills, 10 \$50 dollar bills, and 364 \$20 dollar bills.

13. Of the \$12,430 that officers seized from Hicks and his vehicle, \$3,200 was later identified as counterfeit. The counterfeit currency is currently being stored in evidence; the remaining \$9,230 constitutes the defendant currency at issue in this action.

14. Law enforcement requested the assistance of a dog handler and a drug-detection dog. A properly trained narcotics detection dog positively alerted to the presence of the odor of drugs on the driver's seat, in the center console, and on the currency that was found in the console.

15. Hicks was taken to the police station and questioned by investigators about the source of the defendant currency. Hicks explained that he had earned it by "extort[ing] drug dealers" who want to "deal and get leeway" from him. Hicks added that, if a drug dealer fails to pay him, "he will run them out of town."

16. Hicks was issued an appearance ticket for possession of marijuana and driven by law enforcement to his apartment, in Hudson, New York.

17. Once at the apartment, law enforcement searched it as they were authorized to do pursuant to the terms of Hicks' supervised release.

18. During the search, law enforcement found a plastic bag that was holding two other plastic bags. The first contained a heat-sealed bag with cocaine residue. The second contained latex gloves and a spoon with cocaine residue.

19. Hicks was detained on a parole violation and taken to the Columbia County Jail.

20. Two days later, on March 20, 2018, Hicks had a telephone conversation from the jail with his wife, Renee Hicks.

21. During the conversation, Hicks and Renee Hicks discussed giving someone 23 of "ice cream" (their slang for cocaine) that Hicks stored at the apartment where his mother, Martha Williams (Williams), was living.

22. That same day, law enforcement sought, obtained, and executed a search warrant of Williams' apartment.

23. When police arrived at Williams' apartment, they were greeted by Williams who confirmed that Hicks had stored some of his belonging there. During the search, law enforcement seized two handguns (one that had previously been reported stolen from a residence in a neighboring town; the other which had the serial number scratched off); a fake paint can concealing 151.2 grams of cocaine; and a digital scale.

24. Williams admitted that the fake paint can came from Hicks' apartment.

25. Renee Hicks was also interviewed at the Columbia County Sheriff's Office and, after being advised of her Miranda rights, was questioned about her March 20 telephone conversations with Hicks. Renee Hicks acknowledged that she provided 23 grams of cocaine to someone for her husband, but she would not identify who she provided the cocaine to.

26. Williams has been charged with Criminal Possession of a Controlled Substance in the Second Degree.

27. Hicks has been charged with Criminal Possession of a Controlled Substance in the Second and Third Degrees.

28. Renee Hicks has been charged with Criminal Possession of a Controlled Substance in the Second Degree.

CONCLUSION

29. As required by Supplemental Rule G(2)(f), the facts set forth above support a reasonable belief that the government will be able to meet its burden of proof at trial. Specifically, probable cause exists to believe that the defendant currency constitutes: (a) money furnished or intended to be furnished by a person in exchange for a controlled substance in violation of the Controlled Substances Act; (b) proceeds traceable to such an exchange; or (c) money used or intended to be used to facilitate a violation of the Controlled Substances Act.

WHEREFORE, pursuant to Supplemental Rule G, plaintiff the United States of America, respectfully requests that the Court:

- a) Issue a warrant of arrest *in rem*, in the form submitted with this complaint;
- b) Direct any person having any claim to the defendant currency to file and serve their verified claims and answers as required by 18 U.S.C. § 983(a)(4) and Supplemental Rule G;
- c) Enter judgment declaring the defendant currency to be forfeited and condemned to the use and benefit of the United States; and
- d) Award such other and further relief to the United States as it deems proper and just.

Dated: October 30, 2018

Respectfully Submitted,

GRANT C. JAQUITH
United States Attorney

By: /s/ Adam J. Katz
Adam J. Katz
Assistant United States Attorney
Bar Roll No. 515310

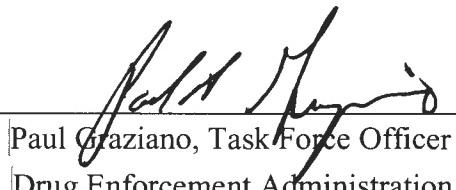
VERIFICATION

STATE OF NEW YORK)
)
COUNTY OF [ALBANY]) ss:
)

Paul Graziano being duly sworn, deposes and states:

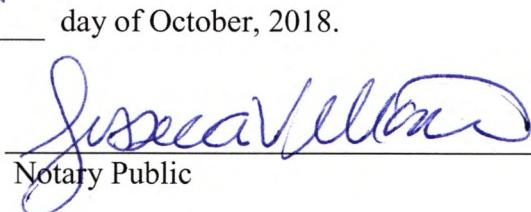
I am a Task Force Officer with the Drug Enforcement Administration. I have read the foregoing Complaint for Forfeiture and assert that the facts contained therein are true to the best of my knowledge and belief, based upon knowledge possessed by me and/or on information received from other law enforcement officers.

Dated this 30 day of October, 2018.



Paul Graziano, Task Force Officer
Drug Enforcement Administration

Sworn to and subscribed before me this 30th day of October, 2018.



Notary Public

JESSICA VELLANO
NOTARY PUBLIC-STATE OF NEW YORK
No. 01VE6053483
Qualified in Rensselaer County
My Commission Expires January 08, 2019

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff Albany
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorney's (Firm Name, Address, and Telephone Number)
Adam J. Katz, Assistant U.S. Attorney (518) 431-0247
United States Attorney's Office, 445 Broadway,
Albany, New York 12207**DEFENDANTS**
\$9,230 in U.S. CurrencyCounty of Residence of First Listed Defendant Columbia
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|---|---|
| <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity
(Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business In This State	PTF	DEF
<input type="checkbox"/>	<input type="checkbox"/> 1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> 4	<input type="checkbox"/> 4
<input type="checkbox"/>	<input type="checkbox"/> 2	<input type="checkbox"/>	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input type="checkbox"/> 5
<input type="checkbox"/>	<input type="checkbox"/> 3	<input type="checkbox"/>	<input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury	PROPERTY RIGHTS	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 400 Trademark	SOCIAL SECURITY	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 862 Black Lung (923)
	REAL PROPERTY	CIVIL RIGHTS	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 863 DIWC/DIW (405(g))
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	FEDERAL TAX SUITS	FEDERAL TAX SUITS
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 871 IRS—Third Party	<input type="checkbox"/> 871 IRS—Third Party
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights	26 USC 7609	26 USC 7609
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition		
			IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee	
			<input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN

(Place an "X" in One Box Only)

- | | | | | | | |
|--|---|--|---|--|---|--|
| <input type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment |
|--|---|--|---|--|---|--|

VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 21USC 881					
	Brief description of cause:					

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

10/30/2018

s/Adam J. Katz

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

Waived

APPLYING IFP

JUDGE

DNH

MAG. JUDGE

DJS

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.